

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

GENERAL ORDER AUTHORIZING THE CLERK OF THE BANKRUPTCY COURT
TO EXECUTE TEMPORARY RELEASES OF SUGGESTEE EXECUTIONS

It appearing to the Court that conflicting procedures exist between this Court's Local Rules and the rules of the West Virginia Supreme Court of Appeals relating to the processing of post-judgment applications for temporary release of suggestee executions, it is ORDERED GENERALLY, effective August 11, 1999, as follows:

The Clerk of the Bankruptcy Court is hereby authorized to use the attached form in order to release suggestee executions of the Bankruptcy Court against judgment debtors who file a properly executed list of state law exemptions under W.Va. Code § 38-8-3 where such list indicates that debtors are entitled to such temporary release of suggestee execution due to exemptions claimed under state law. The Court recognizes that this authorization may be necessary due to the need of post-judgment debtors to file such lists of exemptions prior to every pay period where the debtor desires to protect wages entitled to exemption from execution.

To further encourage efficiency in the processing of such claims for exemptions, the Clerk of this Court is also authorized to appoint a member of his staff to administer such requests for post-judgment relief for Bankruptcy Court judgments. The Court recognizes that this new procedure is contrary to the existing Local Rules; however, this Court finds a change in procedure necessary to comply with Fed. R. Civ. Proc. 64 which instructs the Court to follow state law regarding seizure of property.

ENTERED:

8/12/99



Ronald G. Pearson, Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

In re:

DEBTOR(S).

Chapter ____
Case No. _____

PLAINTIFF(S),

v.

A.P. No. _____

DEFENDANT(S).

TEMPORARY RELEASE OF SUGGESTEE EXECUTION

This day came _____ and filed an affidavit of personal property claimed exempt from legal process, listing wages currently due as exempt from execution pursuant to Fed. R. Civ. Proc. 64 and W.Va. Code § 38-8-3. A suggestee execution was issued pursuant to a judgment obtained by _____, which suggestion was served upon _____, the judgment debtor's employer.

The information contained in such affidavit asserts that the above-named judgment debtor has personal property in the amount of \$_____, and that he/she is entitled to exempt \$1,000.00 of that property pursuant to state law. It further appears that the proper procedures have been followed in order to obtain a temporary release of the suggestee execution. This release is temporary in that state law requires that an affidavit be filed by the judgment debtor every pay period to avoid garnishment. Therefore, this release is only effective as to the judgment debtor's pay check which will be issued on _____.

This temporary release of suggestee execution is effective as of this date, and must be delivered by the judgment debtor to the employer listed above prior to the issuance of the pay check indicated in order to exempt these wages from execution. This release must also be mailed to the judgment creditor or its counsel. The employer is hereby notified that this release is applicable only to the pay period indicated, and unless the employer receives further notice of release, salary or wages accrued after this date remain subject to the provisions of the previously issued suggestee execution.

Dated: _____.

U.S. Bankruptcy Court Clerk